

CHAPTER XIII
REFLECTIONS ON COMMONWEALTH

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The Treaty of Paris of 1898 following the Hispanic American War provides:

“Article 1. Spain relinquishes all claim of sovereignty over Cuba.”

“Article 2. Spain cedes to the United States the Island of Puerto Rico.”

Sixty seven years thereafter we may allow our minds to wonder what would have been the historical reality if the terms of these two Articles had been reversed. I am quite certain that, in spite of their present plight, Cubans either in exile or in muted rebellion against Castro's dictatorship are irrevocably committed to the implications of that first Article. What about Puerto Ricans concerning Article 2? I am absolutely certain that the immense majority of my fellow Puerto Ricans are now and will continue to be, as far as one may foresee into the future, spiritually committed, happily and progressively so, in spite of intervening confusions, exasperations, difficulties, and misunderstandings, to permanent association and union with the United States.

From 1898 to 1965 enormous, almost unbelievable, mostly beneficial changes have taken place in Puerto Rico. In education, health, longevity, human equality, personal freedom, opportunity, productivity, science, technology and modernity, general welfare, integrity in public administration, change through law and law through the democratic process, Puerto Rico and Puerto Ricans stand in the forefront of the hemisphere. Judged by any and all objective standards presently available to test social progress and

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human welfare, we are now on the threshold of the well-to-do nations.

This experience of three score and seven years of living together has left a decisive imprint upon all of us. We cannot act as if our life values had not undergone significant transformations during this period. We cannot pretend that we are writing upon a *tabula rasa* dated 1898. Over 95 percent of the people of Puerto Rico living today were born under the American flag. Concerning the future, I reply we must go ahead and we must go together.

Article 9 of that same Treaty of Paris provided that:

“The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.”

As of today there is still considerable debate concerning Puerto Rico's political status. On February 20, 1964, the Congress established a United States-Puerto Rico Status Commission and charged it to:

“Study all factors including but not limited to existing applicable laws, treaties, constitutions, and agreements which may have a bearing on the present and future relationship between the United States and Puerto Rico.”

The Commission has been at work for close to two years and is expected to report its findings within the current calendar year.

What is the nature of our present association? What should its future nature be?

Present association is the result of an evolutionary process which began in 1898, which has not yet ended, and which is known in Spanish as “*Estado Libre Asociado*”—in English as Commonwealth Government.

As a social and political arrangement, Commonwealth is unique in the Western Hemisphere. What makes it unique?

Puerto Rico is the only part of the old Spanish Empire which is neither an independent nation or an integral part of the United States. We have seen that as a result of the fortunes of war, Puerto Rico came under the jurisdiction of the United States Congress in 1898. The question of what has happened to Con-

gressional jurisdiction over the years has been a matter of considerable debate in the Courts, in Puerto Rico, in Congress, in the United Nations, throughout Latin America. As Puerto Rico has become more and more important and as the United States has become more and more significant, the nature of the present status has become more controversial. There is a discrepancy between the political *de facto* reality and the documents presumably expressing that reality. There is a natural desire to make documents and reality gibe. This is no simple problem. The essence of Commonwealth is flexibility and change within a basic solidarity of social and political purposes. The juridical expression needed to encompass and yet not cramp such a developing situation does not come easily.

The 1898 involvement created frontiers, horizons, relationships, problems which neither the United States nor Puerto Rico had anticipated. The ultimate political objectives of the United States were left indefinite and have remained indefinite to this day. The previous patterns of territorial incorporation were discarded. As time went on, a methodology of muddling through immediate difficulties, postponing ultimate answers, was developed. A process of mutual accommodation to reciprocal idiosyncrasies was evolved. This process, with few basic clarifications resulting more from the test of reality than from theoretical formulations, has prevailed to this day. A pragmatic approach has been followed over the years. This philosophical approach is associated with Anglo-American juridical tradition and especially with British political genius. For our leaders, nurtured in a different juridical, political, and intellectual tradition—the traditions of the Latin World—more inclined towards general rules and codification than towards The Case Method and more partial to *a priori* principles than to trial and error—this relationship was exasperating and confusing. It placed a premium upon indecision; it fostered a disposition towards double talk; it resulted in a very un-American inclination to beat around the bush; it encouraged a degree of deceptiveness, whereby ambiguity or imprecision, or loopholes, would permit one interpretation in Puerto Rico, another in Washington and a third, if necessary, in Latin America.

On the positive side we have absorbed much of the practical wisdom and much of the attention to basic facts which are essential

to the art of living together. We have learned to face real problems, which have no perfect answers, without desperation. We have made a virtue out of a necessity. We have achieved a maturity in the face of adversity of which all of us, regardless of party, can be justly proud. Today, in spite of and in part due to our tribulations, our travails, our resiliency, and also due to outstanding and patriotic leadership, we have crossed the threshold of important political achievements.

The present arrangement, with its many advantages, lacks glaringly that basic formulation of theory which many minds find essential to intellectual tranquility. The expression *in the nature of a compact* used in Public Law 600 of July 3, 1950, which set the stage for our present political ordination known as Commonwealth, was meant to provide an ideological peg upon which to hang the necessary doctrine of mutuality of agreement. The full text read as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that, fully recognizing the principle of government by consent, this Act is now adopted in the nature of a compact so that the people of Puerto Rico may organize a government pursuant to a constitution of their own adoption."

But all the critics of Commonwealth and most of its supporters, with varying degrees of intensity, find that peg insufficiently strong, especially in the light of other of the residual provisions of the Federal Relations Act itself. In consequence, Commonwealth supporters are favoring now before the Status Commission a more adequate and less impeachable formulation whereas supporters of Statehood and of Independence endorse a departure from Commonwealth and a commitment to their respective goals.

In order to visualize the historical matrix of Commonwealth, three decisive political developments must be identified. First, in 1917, United States citizenship was extended to the people of Puerto Rico. This was a far-reaching decision. Until then we had been held to be by the Supreme Court of the United States citizens of Puerto Rico and nationals of the United States. After that legislation we continue to be citizens of Puerto Rico entitled at the same time to the privileges, immunities, and responsibilities of citizens of the United States. Even if these rights and privileges

did not come to full fruition, the congressional action of 1917 represented a departure from a colonial relationship and a basic obligation to redress democratic shortcomings. Under the best American tradition, citizenship is incompatible with discrimination. Given the inadequacies of the Jones Act of 1917, we came then under the category of American citizens with a legitimate democratic grievance. There have been and there are today millions of other aggrieved American citizens. Outstanding groups in this category have been the American negroes, minority groups—significant among them Puerto Ricans in New York City, and American citizens in the District of Columbia. National and congressional determination to deal effectively with their individual and class grievances constitutes one of the great American achievements of recent years.

A second significant political development in Puerto Rico was the incorporation into our social, human, and political outlook of the basic values and objectives of the open society, of the New Deal, of the Welfare State, of the dedication of government to the task of rectifying social injustices through law and providing real opportunities for all. Thus, our political responsibilities became something beyond and aside from political status objectives.

In the last twenty-five years educational opportunities have been expanded to encompass almost all children of school age, illiteracy has been reduced to 10 percent, homes with electricity have increased from 29 percent in 1940 to 80.9 percent in 1960 and life expectancy has increased from 47 to 70 years in spite of the fact that the number of private automobiles has jumped from 16,000 to 300,000.

In the third place, the present Commonwealth status and relationships were formally worked out from 1950 to 1952. I have said *formally* to underscore one basic fact. Commonwealth is not a brilliant formula conceived and brought about by a flash of genius. It is rather an imperfect affirmation of the middle of the road approach which has reflected the feelings and the emotional as well as rational preferences of the large majority of the people of Puerto Rico through our hundred years of partisan political history. No one wishes to detract from the extraordinary contribution which Luis Muñoz-Marín has symbolized and so out-

standingly exerted in the direction of this particular political ordination. But we must remember, and only yesterday Mr. Muñoz-Marín himself reminded a local audience, that his leadership has been effective because it has been exerted in deference to basic realities, aspirations, and trends needing adequate expression in Puerto Rico and in the United States. His leadership has served to advance objectives of social, economic, and political rectification having general backing from the people of Puerto Rico and from the Congress of the United States. Federal deference towards local initiatives and Federal support of Puerto Rican programs had been the rule rather than the exception before 1950. Similarly, local identification with basic national goals, with Constitutional government, with the duties of citizenship, with the rule of law, with education, go back many years. In some instances they go back beyond 1898. We come now to the present search for future goals.

I regard Commonwealth as an evolving, flexible, elastic form of political relationship. One of its highest merits consists in that it is unencumbered by the dogmatism of formulae which were developed in bygone days and which under present conditions hinder the full flowering of culture, social, human interchange of growingly interdependent communities.

I, therefore, favor such changes as serve to advance, strengthen, and clarify the basic meaning of Commonwealth. I oppose changes that may jeopardize that basic meaning.

I shall mention now six important modifications which, while not exhausting the potentials of change, point towards the basic orientation I endorse:

1. Explicit recognition by the Congress of the bilateralness of the arrangement and of the premise supported by past historical practice that as far as the United States Congress is concerned the initial proposals for change in any of the essentials should come from the people of Puerto Rico themselves;

2. Identification of the basic ties and arrangements that are deemed of the essence. Outstanding among these are common commitments to the rule of law, to human rights, to democracy, and to the goals of the great society;

3. Common citizenship with the essential prerogatives, loyalties, obligations inherent thereto.

4. Commitment to the theory of operational flexibility; this is to say, general understanding that the principle of bilateralness does not imply freezing existing laws, rules, or regulations, nor does it preclude unilateral modifications of details in procedure or even in substance at either end.

5. The above matters pertain to economic development, special taxes, revenue and tariff treaties, minimum wages, and similar questions. They require constant revision for they pertain to matters having varying indexes of growth, advancement, oftentimes calling for federal and/or local readjustments. They refer to the give and take of daily relationships and must be envisaged and handled with mutual understanding and appreciation of immediate differences and common goals. This may perhaps be handled best at the administrative level.

6. It might help in the common task of general understanding of relationships if the Spanish expression *Estado Libre Asociado* were substituted literally into English and the term *Free Associated State* became the accepted expression in English, rather than Commonwealth. It is a more precise and accurate expression of the present relationships and would go far to clarify in the minds of our fellow citizens from the North the precise nature of our mutually beneficial and creative relationships.